

MINUTES OF THE MEETING  
OF THE  
BOARD OF DENTISTRY

April 11, 2014

ROLL CALL

The meeting of the Board of Dentistry was called to order at 8:30 a.m. by Terry Wilwerding, DDS, Chairperson, in the Lighthouse Room at the Country Inn and Suites, located at 5353 N 27<sup>th</sup> Street, Lincoln, Nebraska. The Agenda and Revised Agenda (revised more than 24 hours prior to the commencement of the meeting and posted/available for public inspection at the Board's office more than 24 hours prior to the meeting) were sent to the Board members and other interested parties prior to the meeting. The following members answered the roll call:

Terry Wilwerding, DDS, Chairperson  
Robert M. Hinrichs, DDS, Vice-Chairperson  
Cynthia Gaskill, RDH, Secretary  
Jane Lott, RDH  
Joan Sivers, DDS  
Dennis Anderson, DDS  
Charles Bauer, DDS  
Judith Kissell, PhD  
David Blaha, DDS  
Mary Sneckenberg

Also present were: Becky Wisell, Program Manager; Vonda Apking, Health Licensing Coordinator; Lisa Anderson, Assistant Attorney General; Ed Vierk, Assistant Attorney General; Teresa Hampton, Department Legal, Michael Grutsch, Program Manager; and Larry Wiehn, Investigator.

Wilwerding announced that there is a copy of all the public documents being reviewed at this meeting available in the meeting room pursuant to the Open Meetings Act.

ADOPTION OF AGENDA

Lott moved, seconded by Blaha, to adopt the Revised Agenda with the ability for the Chairperson to rearrange as necessary. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

APPROVAL OF MINUTES

January 27, 2014

Sivers moved, seconded by Sneckenberg, to approve the January 27, 2014, minutes as presented. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

INVESTIGATIONAL REPORTS AND APPLICATION REVIEW – CLOSED SESSION

Hinrichs moved, seconded by Blaha, to go into closed session at 8:33 a.m. for the purpose of hearing investigational reports, probation compliance monitoring reports, and application review. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

Hampton left the meeting at 8:33 a.m.

Gaskill recused herself from the meeting at 9:07 a.m.  
Gaskill returned to the meeting at 9:09 a.m.

L. Anderson and Vierk left the meeting at 9:24 a.m.  
Hampton rejoined the meeting at 9:24 a.m.

L. Anderson and Vierk rejoined the meeting at 9:30 a.m.

Hampton left the meeting at 9:33 a.m.

Anderson moved, seconded by Sivers, to reopen the session at 9:37 a.m. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

Hampton rejoined the meeting at 9:37 a.m.

#### APPLICATION REVIEW – OPEN SESSION - CONTINUED

##### Dental Application(s)

Hinrichs moved, seconded by Blaha, to recommend issuing a dental license to Charlotte Church upon meeting all requirements for licensure. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

Anderson moved, seconded by Blaha, to recommend issuing a dental license to Brian Hohlen upon meeting all requirements for licensure. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

##### Dental Hygiene Application(s)

Blaha moved, seconded by Sivers, to recommend issuing a dental hygiene license to Alisha Barber upon meeting all requirements for licensure. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

Hinrichs moved, seconded by Sneckenberg, to recommend issuing a dental hygiene license to Tracy Lutt upon meeting all requirements for licensure. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

Anderson moved, seconded by Sivers, to recommend issuing a dental hygiene license to Blair Peterson upon meeting all requirements for licensure. Voting aye: Anderson, Bauer, Blaha, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: Abstained: Gaskill. None. Motion carried.

Gaskill moved, seconded by Lott, to recommend issuing a dental hygiene license to Shelbie Rose upon meeting all requirements for licensure. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

##### Reinstatement Application(s)

Hinrichs moved, seconded Sivers, to recommend the reinstatement of Stephen Dent's dental license upon providing proof of completion of 30 hours of continuing education, CPR recertification, review of medical emergencies, review of pertinent regulations of the Dental Practice Act, and the Dr. Stephen Buchanan 2-day "hands-on" course. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

Blaha moved, seconded by Anderson, to recommend denying the reinstatement application of Jane Odgers' dental license. The basis for this denial is past disciplinary action by another state and the misrepresentation of material facts in procuring a license. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

Bauer moved, seconded by Blaha, to recommend the removal of the limitations placed on Robert Cochrane's dental license. The basis for this recommendation is because Iowa removed their limitations in 2008 and there has not been anymore disciplinary action. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

Wilwerding mentioned that Iowa Western Community College Dental Hygiene Program is developed a refresher course for dental hygienists that would like to reinstate but do not meet the practice requirement for reinstatement. Wilwerding will keep the Board informed about when the course becomes available.

#### REQUEST FOR DECLARATORY ORDER REGARDING DENTAL ASSISTANTS APPLYING SEALANTS

Wisell explained that Dr. Jessica Meeske submitted a request for a declaratory order regarding whether the dental assistants in her office could apply sealants. The Nebraska Dental Hygienists Association (NDHA) filed an order to Intervene. Dr. Acierno declined to rule, therefore the NDHA's Order to Intervene is moot. Dr. Acierno's basis for declining to rule was that allowing this procedure affects more than just the dental assistants in Dr. Meeske's office.

Wisell explained that the Board's opinion on requiring training to perform this procedure and that the Attorney General's office said that the Board didn't have the statutory authority to require training. That is when the taskforce was developed to address expanded functions for dental assistants.

Hampton mentioned that going through the 407 Credentialing Review Program would be helpful but all groups need to work together.

Blaha left the meeting at 10:08 a.m.

Wisell introduced Matthew Gelvin. Mr. Gelvin is the new Program Manager for Research, Policy and Quality Improvement which handles the 407 Credentialing Review Program and the Board of Health.

The Board suggested revisiting their opinion on dental assistants performing sealants at the next Board meeting.

#### CENTRAL REGIONAL DENTAL TESTING SERVICE (CRDTS)

##### Designation of a Substitute Representative for the Steering Committee meeting in June 2014

Anderson volunteered to be the substitute representative for the Steering Committee meeting in June. Apking will forward Anderson's contact information to CRDTS.

##### Annual Schools' Report

The Board were provided the Annual Schools' Report. The Board mentioned that there was some information missing. Staff will rescan the document and send it out to the Board members.

##### News Article of CRDTS Confidentiality Breach

Lott explained that CRDTS has a policy for destroying records. CRDTS is investigating how the security breach happened. CRDTS Attorneys office will report to Nebraska's Attorney General's office answering the letter written to CRDTS inquiring about the breach.

#### SUBCOMMITTEE REPORTS

##### Dental Anesthesia Subcommittee – Update of the 407 Technical Review Committee Meeting Pertaining to Dental Anesthesia

Bauer explained that the Technical Review Committee met 6 times. The report from the Technical Review Committee was accepted by the Board of Health. The Board of Health submitted their own report. Dr. Acierno has not issued his report. Once all three reports are available then the reports will be

forwarded to the Legislature. Wilwerding thanked the Dental Anesthesia Subcommittee for their time and commitment to this issue.

#### Continuing Education Review Subcommittee

The Board had nothing to discuss at this time.

#### Nebraska Examination Review Subcommittee

Lott mentioned that Western Regional Examining Boards (WREB) is no longer administering a patient based oral assessment however they are using a computer based assessment tool. Minnesota is no longer offering the CRDTS examination and are only offering the Canadian examination.

#### LEGISLATIVE UPDATE

Wisell explained the LB 54 dealing with advertising and displaying your credential. This bill has not advanced.

Wisell explained that LB 535 is a carryover bill from last legislative session on a prescription drug monitoring program.

LB 1072 with amendments was signed by the Governor yesterday. Nebraska's current prescription drug monitoring program (PDMP) that is based on electronic health records. This bill will change the current PDMP in Nebraska and bring it in-line with other state's PDMPs.

#### AMERICAN ASSOCIATION OF DENTAL BOARDS (AADB) MID-YEAR MEETING REPORT

There was discussion on the following issues:

- 1) scope of practice and standard of care issues;
- 2) the anesthesia revised guidelines;
- 3) recognizing and managing complications during minimal and moderate sedation;
- 4) policies, guidelines and regulations to comply with new standards for Botox and Dermafillers;
- 5) current trends in anesthesia;
- 6) anesthesia deaths in dental practice; and
- 7) specialty licensure including recognition and restriction and a survey of states.

#### UPDATE ON FEDERAL TRADE COMMISSION CASE INVOLVING THE NORTH CAROLINA BOARD OF DENTISTRY

Hampton provided the Board an update on the Federal Trade Commission case involving the North Carolina Board of Dentistry. The Supreme Court accepted the case on March 3, 2014. The underlining issue of the case is teeth whitening and when can a state board take these types of actions. It is a complicated issue.

#### PRACTICE ISSUES

##### Request for an Opinion Regarding Owning a Teeth Whitening Kiosk

Bauer moved, seconded by Anderson, the Board chooses not to give an opinion based on the current Federal Trade Commission case involving the North Carolina Board of Dentistry and suggest that Mr. Soltanov seek his own legal advice. Voting aye: Anderson, Bauer, Blaha, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Motion carried.

##### Is It Within the Scope of Practice for Dentistry to Administer an FDA Approved Home Test for AIDS to a Dental Patient?

There are currently universal precautions for healthcare professionals. Sivers suggested not providing an opinion at this time but to look at this issue again in the future. Bauer moved, that this is not within the scope of practice of dentistry. Motion failed because of lack of second.

### Compliance with 172 NAC 54 Regulations Governing Professional Advertising by Dentists

The advertising regulations doesn't prohibit a dentist from identifying a specialty however if the specialty is not an American Dental Association (ADA) recognized specialty, the dentist would need to identify the fact. If anyone has concerns with advertising send those advertisements to investigations.

### BOARD OF DENTISTRY NEWSLETTER

Anderson mentioned that he replaced Blaha on the Continuing Education Subcommittee. Apking will make that change and prepare for publishing.

### ADJOURNMENT

Lott moved, seconded by Kissell, to adjourn the meeting at 11:35 a.m. Voting aye: Anderson, Bauer, Gaskill, Hinrichs, Kissell, Lott, Sivers, Sneckenberg, Wilwerding. Voting nay: None. Absent: Blaha. Motion carried.

Respectfully submitted by,

(signature on file at the Department)

Cynthia Gaskill, Secretary  
Board of Dentistry